

REMARKS

1. In response to the Office Action mailed March 17, 2008, Applicants respectfully request reconsideration. Claims 1, 3-8, 10-12, 14-17, 21-28, 32, 33, 38, 39, 43-45, 47, 48, 54 and 61-63 were last presented for examination. In the outstanding Office Action, claims 1, 3, 5-8, 10-12 and 14-17 have been rejected. By the foregoing amendments, claims 1, 3, 5, 6, 8, 10-12, 14-16, 51-52 and 56 have been amended, no claims have been canceled, and claim 68 has been added. Claims 21-28, 32, 33, 38, 39, 43-48, 51, 52, 54-57 and 61-63 have been withdrawn pursuant to a restriction requirement. Thus, upon entry of this paper, claims 1, 3-8, 10-12, 14-17, 21-28, 32, 33, 38, 39, 43-45, 47, 48, 54, 61-63 and 68 will remain pending in this application. Of these forty (40) claims, three (3) claims (claims 1, 21, and 43) are independent claims.

2. Based on the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Election/Restriction

3. Applicants thank the Examiner for acknowledging Applicants' election of Group IA, claims 1, 3, 5-8, 10-12 and 14-17.

Art of Record

4. Applicants acknowledge receipt of form PTO-892 listing additional references identified by the Examiner.

5. Applicants thank the Examiner for return of form PTO/SB/08, filed by Applicants on May 31, 2006, which has been initialed by the Examiner indicating consideration of the references cited therein.

Foreign Priority

6. Applicants note with appreciation the Examiner's acknowledgement of foreign priority under 35 U.S.C. §119.

7. Applicants note with appreciation Examiner's acknowledgement of receipt of copies of the priority documents from the International Bureau.

Drawings

8. The Examiner has failed to indicate whether the drawings have been accepted by the Examiner. To ensure a complete record of this application, Applicants respectfully request that the Examiner indicate in the next official action that the drawings have been accepted by the Examiner.

Specification

9. The Examiner has objected to the specification because the title is not descriptive. Applicants have amended the Title of the application to recite "Implantable Antenna." Applicants assert that this new title is indicative of the invention to which the claims are directed. As such, Applicants request that the Examiner withdraw the objection to the specification.

Claim Amendments

10. Applicants submit that the above amendments have not been made in response to any objections or rejections, and that the above Amendments do not narrow the scope of the claims. Applicants further submit that no new matter has been added.

New Claim 68

11. Applicants have added new claim 68 to further claim embodiments of the present invention. Applicants submit that no new matter has been added and that claim 68 is consistent with the subject matter of previously elected Group IA.

Claim Rejections Under 35 U.S.C. §102

12. The Examiner has rejected claims 1, 3 and 5-8 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,824,306 to Pfaff, (hereinafter, "Pfaff"). For at least the following reasons, Applicants respectfully disagree.

13. Pfaff is directed to an improved large scale loop antenna for use in a radio receiver of a building or portable radio. (See, Pfaff, col. 1, Ins. 1-32.) Such loop antennas "usually consist of

a number of turns of wire, usually wound in close proximity to each other.” (See, Pfaff, col. 1, lns. 35-38.) These loops of wire may be wound around, for example, the outside of a cabinet or are supported on a fiber insulating form secured to a cabinet. (See, Pfaff, col. 1, lns. 35-38.)

14. The loop antenna of Pfaff is an improvement over prior art antennas because the described antenna has an increased factor of merit, referred to as the antenna’s Q. (See, Pfaff, col. 2, lns. 11-63.) The Q of an antenna is directly proportional to the ability of the antenna to “pick up desired signals.” (See, Pfaff, col. 1, lns. 46-70.) Therefore, by increasing the Q, the antenna of Pfaff is designed to have a reception that is superior to prior art devices. (See, Pfaff, col. 1, lns. 46-70.) The Q of the loop antenna is increased by changing the permeability of the material separating the coils of the loop. (See, Pfaff, col. 2, lns. 11-63.)

15. As shown in FIG. 3 of Pfaff, the wire of the antenna is wound around a Bakelite tube. The Bakelite tube is then placed around an iron rod having a permeability that is much higher than the permeability of air, thereby increasing the Q factor of the antenna. (See, Pfaff, Figure 3; col. 4, lns. 15-42.) The iron rod and tubing are then secured to a cover plate via brackets. (See, Pfaff, Figure 3; col. 4, lns. 15-42.) The ends of the wire are attached to a trimmer condenser mounted to the cover plate. (See, Pfaff, Figure 3; col. 5, lns. 3-9.)

Claim 1

16. Claim 1 recites, in part, a “method of forming an antenna configured to be implanted in a recipient, comprising: positioning a feedthrough member relative to an antenna template.” Applicants assert that Pfaff fails to anticipate or render obvious at least these elements of Applicants’ claim 1.

17. First, the loop antenna of Pfaff fails to anticipate or render obvious the above elements because Pfaff fails to disclose “positioning a feedthrough member relative to an antenna template.” (See, Applicants’ claim 1, above.) In the office action, the Examiner equates the trimmer condenser of Pfaff to a “feedthrough member” and equates the iron rod to an “antenna template.” (See, Office Action, pgs. 4-5.) The Examiner then asserts because Pfaff discloses these elements, Pfaff teaches “positioning a feedthrough member relative to an antenna template” as recited, in part, in claim 1. (See, Office Action, pg. 4.) It is well known that a trimmer condenser, sometimes referred to as a trimmer capacitor, is a type of variable capacitor

that permits one to adjust the performance of a circuit by increasing or decreasing the capacitance of the circuit. Applicants assert that such a variable capacitor is not equivalent to a “feedthrough member.” Therefore, because Pfaff does not teach a “feedthrough member,” Applicants assert that it is impossible for Pfaff to anticipate or render obvious “positioning a feedthrough member relative to an antenna template.” (See, Applicants’ claim 1, above.)

18. Second, even if the trimmer condenser of Pfaff were equivalent to a “feedthrough member” (which it is not), Applicants assert that Pfaff would still fail to anticipate or render obvious the above elements because the antenna of Pfaff is not “configured to be implanted in a recipient.” (See, Applicants’ claim 1, above.) As noted, Pfaff describes a radio antenna designed for large scale applications, such as portable radios. (See, Pfaff, col. 1, lns. 1-32.) To this end, the antenna of Pfaff comprises an iron rod surrounded by Bakelite tubing which is secured to a cover plate via brackets. (See, Pfaff, Figure 3; col. 4, lns. 15-42.) Applicants assert that an antenna comprising an iron rod and attached to a cover plate via brackets is not “configured to be implanted in a recipient” as recited in Applicants’ claim 1.

19. For at least the reasons discussed above, Applicants assert that Pfaff fails to anticipate or render obvious all elements of Applicants’ claim 1. Applicants further assert that the other art of record also fail to teach or suggest that which is missing from Pfaff. Therefore, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. §102 be reconsidered, and that it be withdrawn.

Claim Rejections Under 35 U.S.C. §103

20. The Examiner has rejected claims 14-16 under 35 U.S.C. 103(a) as being unpatentable over Pfaff. Similarly, claim 17 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Pfaff in view of U.S. Patent No. 5,779,839 to Tuttle *et al.*, (hereinafter, “Tuttle”). For at least the reasons discussed above with reference to claim 1, Applicants assert that Pfaff fails to teach that which is asserted by the Examiner. Applicants further assert that Tuttle fails to teach that which is missing from Pfaff. As such, Applicants respectfully submit that because the combination of Pfaff and Tuttle fails to teach all elements of these claims, the rejections under 35 U.S.C. §103 are improper. Therefore, Applicants respectfully request that these rejections be reconsidered, and that they be withdrawn.

Dependent Claims

21. The dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art of record. Accordingly, Applicants respectfully assert that the dependent claims are also allowable over the art of record.

Conclusion

22. In view of the foregoing, Applicants respectfully submit that this application is now in condition for allowance. A notice to this effect is respectfully requested.

23. Applicants make no admissions by not addressing any outstanding rejections or basis of rejections. Furthermore, Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Thus, cancellations and amendments of above claims, are not to be construed as an admission regarding the patentability of any claims.

Dated: July 17, 2008

Respectfully submitted,

Electronic signature: /Michael G. Verga/
Michael G. Verga
Registration No.: 39,410
CONNOLLY BOVE LODGE & HUTZ LLP
1875 Eye Street, NW
Suite 1100
Washington, DC 20006
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicants